

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

MICHAEL D. ROSE, *et al.*,

Plaintiffs,

V.

JEFF S. SANDY, *et al.*,

Defendants.

Civil Action No. 5:22-cv-00405
(Judge Volk)

SUPPLEMENT TO JOINT MOTION FOR PRELIMINARY APPROVAL

Pursuant to Federal Rule of Civil Procedure 23(e), Plaintiffs Michael D. Rose, Robert C. Church, Sr., Nicole Henry, Edward L. Harmon, Thomas Fleenor, Jr., William Bohn, and Tonya Persinger, individually and on behalf of a putative class of others similarly situated (collectively, “Plaintiffs”) and Defendants Jeff S. Sandy, individually and in his official capacity as the former Cabinet Secretary of the West Virginia Department of Homeland Security, William K. Marshall III, individually and in his official capacity as the Commissioner of the West Virginia Division of Corrections and Rehabilitation, Betsy Jividen, Brad Douglas, and Michael Francis (collectively, “Settling Defendants”) (all collectively, “Settling Parties”) submit this supplement to the Joint Motion for Preliminary Approval previously filed on December 8, 2023. ECF No. 849. Specifically, Settling Parties hereby supplement the Settlement Agreement and Release (“Agreement”) with the Declaration of Shannon Wheatman, Ph.D. on Adequacy of Notices and Notice Plan as Exhibit E to the Joint Motion. Attached as Exhibit 1 to Dr. Wheatman’s Declaration is Dr. Wheatman’s curriculum vitae; Exhibit 5 to the Declaration is the final proposed Claim Form (Agreement Supplemental Exhibit A); Exhibit 3 is the Email Notice (Agreement Supplemental Exhibit B); Exhibit 4 is the Long Form Notice (Agreement Supplemental Exhibit C); and Exhibit

2 is the U.S. Mail Notice (Agreement Supplemental Exhibit D). *See* ECF No. 849-1 –849-4. Settling Parties request that the Court consider the Agreement’s Supplemental Exhibits, rather than the draft exhibits previously filed with the Court when deciding the Joint Motion for Preliminary Approval, and accept Dr. Wheatman’s Declaration.

Jointly submitted this 15th day of December 2023.

/s/ Stephen P. New

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Honorable Frank W. Volk**

CERTIFICATE OF SERVICE

I certify that on this 15th day of December, 2023, I filed the foregoing “**Supplement to Joint Motion for Preliminary Approval**” via the CM/ECF system, which will send a notification to all counsel of record.

/s/ Stephen P. New
Stephen P. New (WVSB 7756)